

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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E. Mishan & Sons, Inc.,

Plaintiffs,

Civ. Action No.

-against-

Kristina M. Heick and Robert R. Heick II,
d/b/a Heick Enterprises

Defendants.

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RELATED CASE NOTIFICATION
LOCAL CIVIL RULE 1.6

Please take Notice that the above-identified civil action may be deemed a related case to civil action 08CV3071(BSJ)(DFE) entitled *E.Mishan & Sons, Inc. v. Your Store Online LLC and Chris Reoch*, assigned to the Honorable Barbara S. Jones.

The following facts are believed to be relevant to a determination that the above identified civil action and civil action 08CV3071(BSJ)(DFE) should be heard by the same Judge.

The above-identified civil action asserts five of the causes of action pled in civil action 08CV3071(BSJ)(DFE), namely, trademark infringement and trademark counterfeiting under Section 32 of the Lanham Act, 15 U.S.C. § 1114; unfair competition, false designation of origin, false description, and misrepresentation under Section 43 (a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125 (a)(1)(A); unfair competition under the common law of New York; trademark infringement under the common law of New York; and deceptive acts and practices in violation of New York General Business Law § 349.

Both actions concern allegations that the defendant in each civil action is infringing the same trademark of plaintiff, that the defendant in each civil action is using, without plaintiff's authority, the trademark of plaintiff, on and/or in connection with the respective Internet web sites of each defendant, and the advertising, offer for sale and sale of an abdominal exercise product.

The plaintiff in both cases is the same. The witnesses testifying on behalf of the plaintiff in each case will be the same persons in most instances. Evidence regarding plaintiff's trademark use, advertising and product sales is likely to be the same.

Dated: New York, New York
June 11, 2008

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